UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION DOCKET NO. 3:10-cr-00069-FDW

UNITED STATES OF AMERICA,)	
)	
)	
VS.)	AMENDED
)	ORDER
SHIRLEY INGRAM JR,)	
)	
Defendant.)	
)	

THIS MATTER is before the Court on Defendant's Motion for Appointment of Counsel, (Doc. No. 144).

Defendant seeks appointment of counsel "under the First Step Act 18 U.S.C. 3582(C)(1)(a) [sic]." (Doc. No. 144, p. 1). It is well-settled that "a criminal defendant has no right to counsel beyond his first appeal." <u>United States v. Legree</u>, 205 F.3d 724, 730 (4th Cir. 2000) (quoting <u>Coleman v. Thompson</u>, 501 U.S. 722, 756 (1991)). "Though in some exceptional cases due process does mandate the appointment of counsel for certain postconviction proceedings, . . . [a] motion for reduction of sentence does not fit into this category." <u>Legree</u>, 205 F.3d at 730 (internal citation omitted); <u>see also In Re: Appointment of Counsel for Motions for a Sentence Reduction Pursuant to the First Step Act</u>, 3:21-mc-228 (W.D.N.C. Dec. 16, 2021) (emphasizing appointment of counsel is not authorized for "motions for sentence reduction or release under 18 U.S.C. § 3582(c)").

To the extent Defendant requests appointment of counsel to seek a sentence reduction under Section 404(b) of the First Step Act, Publ. L. 115-391, 132 Stat 5194 (2018), Defendant has not filed a pro se motion under Section 404(b). Additionally, it appears that Defendant's

convictions for which he is currently serving a sentence do not qualify as a "covered offense' under Section 404(b). See generally Terry v. United States, — U.S. —, 141 S. Ct. 1858, 1863, 210 L.Ed.2d 108 (2021); United States v. Thomas, 32 F.4th 420 (4th Cir. 2022)

IT IS THEREFORE ORDERED that Defendant's Motion for Appointment of Counsel, (Doc. No. 144), is DENIED.

IT IS FURTHER ORDERED that this Court's Order entered May 10, 2022, (Doc. No. 145), is VACATED.

IT IS SO ORDERED.

Signed: September 15, 2022

Frank D. Whitney United States District Judge